

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

WILLIAM MAY)	
)	
Plaintiff,)	
)	
v.)	
)	
THE REMEDY DINER, INC.)	
)	
<u>Defendant.</u>	<u>)</u>	

NOTICE OF REMOVAL OF CIVIL ACTION

The Remedy Diner (“Defendant”), by and through counsel and in accordance with the requirements of 28 U.S.C. §§ 1446, hereby gives notice of removal of this case to the United States District Court for the Eastern District of North Carolina. In support of this notice, Defendant states as follows:

1. On or about February 5, 2016, Plaintiff William May (“Plaintiff”) filed a complaint against Defendant in the North Carolina Superior Court in Wake County (Case No. 16 CVS 1434).
2. The Complaint alleges that Plaintiff is a resident of Wake County, North Carolina
3. Defendant is a corporation organized under the laws of North Carolina doing business in North Carolina.
4. The Summons was issued on February 5, 2016, and Defendant was served with a copy of the complaint on February 18, 2016 and within the past thirty (30) days.
5. In the complaint, Plaintiff alleges that he worked as an employee of Defendant and that he worked 40 hours per week.

6. Accordingly, Plaintiff's complaint alleges that Defendant violated federal law, specifically the Americans with Disabilities Act ("ADA") and Title VII of the Civil Rights Act of 1964.

7. This Court is the District Court for the United States for the district and division embracing the place where the state court action is pending, and is thus the appropriate court for removal pursuant to 28 U.S.C. § 1441 (a).

8. This notice is filed within thirty (30) days after Defendant's receipt of the complaint. Therefore, pursuant to 28 U.S.C. § 1441 (b), the time period for filing this notice of removal has not elapsed.

9. Copies of all pleadings and documents known to have been filed in the state court are attached hereto as Exhibit A.

10. A copy of this notice will be filed with the clerk of the North Carolina District Court in Wake County and served on all adverse parties, as required by 28 U.S.C. § 1446 (d). A copy of the notice of filing notice of removal is attached as Exhibit B.

11. By filing this notice of removal, Defendant does not waive and hereby expressly reserves the right to assert any defense or motion available in this action after it is removed to this Court.

WHEREFORE, Defendant prays that this entire action be removed from the North Carolina Superior Court in Wake County, and that the United States District Court for the Eastern District of North Carolina, Raleigh Division, assumes full jurisdiction over this case as provided by law.

This, the 17th day of March, 2016.

/s/John S. Austin

John S. Austin, Esq. NCSB 20826

Austin Law Firm, PLLC

Attorney for Defendant

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CERTIFICATE OF SERVICE

I, John S. Austin, attorney for Plaintiff, certify that I served the foregoing document upon the following party(ies) via the Court's electronic filing system and US Mail:

Drew S. Sprague, Esq.
Sprague Law, PLLC
219 W. Martin St.
Raleigh, NC 27601

This, the 7th day of March, 2016.

/s/John S. Austin
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Austin Law Firm, PLLC
Attorney for Defendant
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